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	First Named Inventor	Dominic Bennett	
	Art Unit	2173	
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## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Appeal Brief Under 37 C.F.R. 41.37 (10 pgs); Claims Appendix (3 sheets); Evidence Appendix; Related Proceedings Appendix; Return Receipt Postcard
<b>Remarks</b>		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	OKAMOTO & BENEDICTO LLP		
Signature	<i>Patrick D. Benedicto</i>		
Printed Name	Patrick D. Benedicto		
Date	September 29, 2006	Reg. No.	40,909

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Typed or printed name	Patrick D. Benedicto	Date	September 29, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Docket No. 10005.001900  
Appeal Brief  
September 29, 2006



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:

Dominic Bennett et al.

Application No.: 10/700,820 Examiner: Hailu, Tadesse

Filing Date: November 4, 2003 Art Unit: 2173

Assignee: Claria Corporation

Title: Techniques For Analyzing The Performance Of Websites

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Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF FILED UNDER 37 C.F.R. § 41.37**

Sir:

This appeal brief follows the Notice of Appeal filed by Applicants on September 28, 2006.

A check covering the fee for filing an appeal brief is submitted herewith. If for any reason the check is insufficient or additional fees are required, the Commissioner is hereby authorized to charge the insufficiency to Deposit Account No. 50-2427.

I. REAL PARTY IN INTEREST

The real party in interest is Claria Corporation of Redwood City, California, which is the assignee of the present application.

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## II. RELATED APPEALS AND INTERFERENCES

On information and belief, there are no appeals, interferences, or judicial proceedings known to the appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board of Patent Appeals and Interferences (the "Board") decision in the pending appeal.

## III. STATUS OF CLAIMS

Claims 1-25 are pending in this application and stand finally rejected.

Claims 1-25 are being appealed. These claims are rejected in the final office action mailed September 13, 2006 ("last office action").

## IV. STATUS OF AMENDMENTS

No amendment has been filed after the final rejection.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

The claimed subject matter relates to analysis of performance of web sites. A lot of free information available on the Internet is supported by advertising dollars. To make the most of their advertising budget, advertisers need to be on the lookout for the best websites to place their advertisements or ways to improve their own websites. Embodiments of the present invention employ a unique technique that includes processing of navigation histories of user client computers to determine the performance of a website not in isolation, but also in relation to other websites with regards to a particular user. This advantageously allows for a more accurate assessment of website performance compared to those that rely on server hit monitoring.

Independent claim 1 recites a method of analyzing the performance of websites on the Internet. The method includes receiving navigation histories from a plurality of client computers on the Internet, with each navigation history identifying the different websites

visited by a user of one of the aforementioned client computers (Specification, FIG. 2, data packets 121 from client computer 110 to message server computer 140; FIG. 3, log entries 323 in data packet 121; FIG. 5, client computers 110 to message server computer 140; page 8, line 6 to page 9, line 10; page 12, lines 16-20). A first database of the navigation histories is built (Specification, FIG. 5, warehouse processing program 502 to data warehouse 504; page 13, lines 13-23). Navigation histories in the first database is processed to generate relevant web site traffic data, which is stored in a second database (Specification, FIG. 5, datamart processing program 506 to datamart 508; page 14, lines 11-21). The second database may be queried to generate a report indicative of web site performance, the report being generated in accordance with user provided criteria (Specification, FIG. 5, report creation procedure 510 interacting with desktop application 520; FIGS. 8-15; page 17, lines 1-6).

Independent claim 14 recites a software tool for analyzing website traffic on the Internet. The tool includes a first database containing navigation histories from client computers on the Internet (Specification, FIG. 5, warehouse processing program 502 to data warehouse 504; page 13, lines 13-23). The tool also includes a submission module for receiving reporting criteria from a user (Specification, FIG. 5, submission module 522; page 17, lines 19-23). The tool further includes a report creation module for generating a report based on the user-provided reporting criteria (Specification, FIG. 5, report creation module 526; page 20, lines 5-13).

Independent claim 17 recites a method of analyzing the performance of locations on a computer network. The method includes collecting navigation histories from client computers on the computer network (Specification, FIG. 2, data packets 121 from client computer 110 to message server computer 140; FIG. 3, log entries 323 in data packet 121; FIG. 5, client computers 110 to message server computer 140; page 8, line 6 to page 9, line 10; page 12, lines 16-20). The navigation histories are processed to obtain relevant navigation data (Specification, FIG. 5, warehouse processing program 502 to datamart 508). A report indicative of a performance of a location on the computer network may be generated based on the relevant navigation data (Specification, FIG. 5, report creation procedure 510 interacting with desktop application 520; FIGS. 8-15; page 17, lines 1-6).

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are to be reviewed on appeal:

1. The rejection of claims 1-3, 7-11, 13-20, 24, and 25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2002/0042821 A1 by Muret et al. (“Muret”);

2. The rejection of claims 4, 5, 6, 12, 21, 22, and 23 under 35 U.S.C. § 103(a) as being unpatentable over Muret in view of U.S. Publication No. 2002/0083067 A1 by Tamayo et al. (“Tamayo”).

## VII. ARGUMENT

Applicants respectfully traverse the aforementioned rejection of claims 1-25 in the last office action for the following reasons.

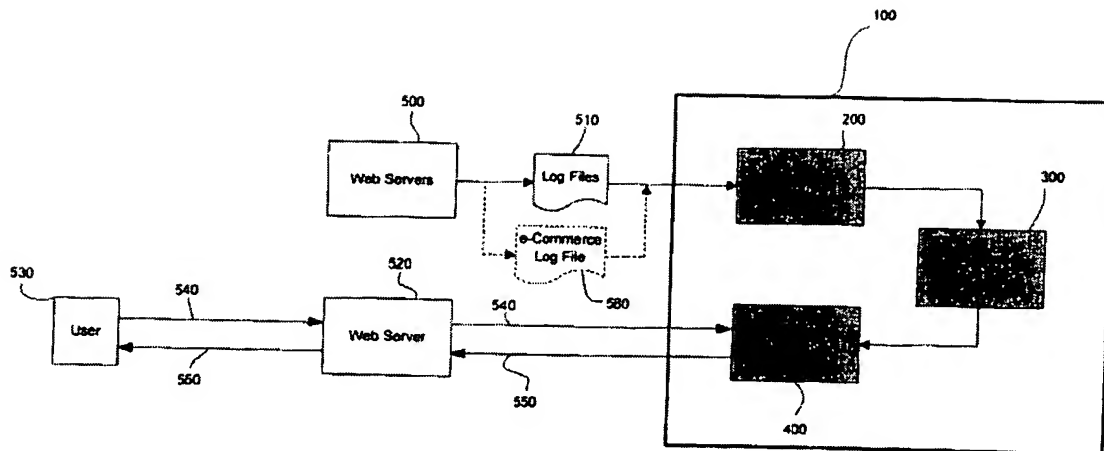
### A. CLAIMS 1-3, 8, 10, 11, and 14-20

Claims 1-3, 8, 10, 11, and 14-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2002/0042821 A1 by Muret et al. (“Muret”). The rejection is respectfully traversed.

There are three requirements to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation to modify a reference or to combine references. Second, there must be a reasonable expectation of success. Third, the prior art reference or combined references must teach or suggest all the claim limitations. See MPEP § 2143.

Claim 1 is patentable over Muret at least for reciting: “receiving **navigation histories** from a plurality of **client computers** on the Internet, each of the navigation history identifying different **websites visited by a user of a client computer** in the plurality of client computers” (emphasis added).

A brief description of Muret is in order. Muret’s system 100 for monitoring and analyzing Internet traffic is shown in Muret FIG. 1, which is reproduced below for ease of discussion.



In Muret, the system 100 includes a log engine 200 that receives log files 510 and 580 from web servers 500 (Muret paragraphs 0051, 0053). Each log file includes information about visitors to a particular web site on a web server 500. That is, the log file pertains to visit histories to a website, such as hits or transactions (Muret paragraphs 0051-0058). Since a log file is dependent on hits or transactions, the log file cannot possibly identify where a client computer has been (its navigation history). A log file can only identify navigation by a client computer to the particular website writing on the log file.

Muret paragraph 0004, cited in the last office action, discusses how a web server keeps track of web pages clicked by a visitor on a particular website. The information gathered by the web server thus indicates a visit to a website (albeit with multiple web pages), not the navigation history of the visitor. Similarly, Muret paragraph 0110 and FIG. 14, also cited in the last office action, relate to visitor information on a particular website, not navigation histories of visitors.

It is respectfully submitted that Muret does not teach or suggest receiving a navigation history **from a client computer** as required by claim 1. In Muret, log files are received from web servers 500, not a client computer. The last office action does not contend that Muret's system 100 receive navigation histories from client computers. Instead, the last office action argues that Muret's system 100 can do so using the Internet Explorer's navigation history. In essence, the last office action suggests modifying

Muret's system 100 to receive an Internet Explorer's navigation history. There are several problems with this proposed modification.

Firstly, as noted in the last office action, Muret does not even disclose the "history feature element" of its browser. This is not surprising given that Muret's system 100 has no need to do so. Muret's system 100 receives log files from web servers, not user client computers, and browsers are in the client computers. The last office action takes Official Notice that it is well known to receive and identify pages of web sites visited by users by clicking a tool bar of the Internet Explorer web browser. Applicants object to this Official Notice because while web browsers keep a record of URLs visited by the user, such records of URLs **are not transmitted to web servers**. That is, it is not well known to transmit the Internet Explorer's URL records to an external server computer, such as Muret's system 100. Neither Muret nor any of the references of record teaches or suggests how to forward the Internet Explorer's URL record to an externally located server computer. **The last office action does not provide an explanation as to how clicking a tool bar of the Internet Explorer would result in its URL record being transmitted to Muret's system 100 and be used to assess website performance.**

Secondly, changing Muret's system 100 to process URL records from client computers instead of web server log files would change its primary mode of operation. Muret's system 100 is designed to process log files from web servers. There is simply no disclosure in Muret how to process navigation histories from client computers. There is no facility in Muret's system 100 or in the user client computer 530 to do so. Such a disclosure is in the present application, not any of the references of record. Modifying Muret's system 100 to interact directly with client computers would require a major redesign using the present application as a blueprint.

Thirdly, neither Muret nor any of the references of record teaches or suggests the desirability of using navigation histories of client computers. The use of client navigation histories to assess the performance of websites, and its attendant benefits, is only disclosed in the present application, not in any of the references of record.

Therefore, it is respectfully submitted that claim 1 is patentable over Muret.

Claims 2, 3, 8, 10, and 11 depend on claim 1 and are thus patentable over Muret at least for the same reasons that claim 1 is patentable.

Similar to claim 1, claim 14 is patentable over Muret at least for reciting: “a first database configured to receive **navigation histories** from a plurality of **client computers** on the Internet, each navigation history including information about different **websites visited by a user of a client computer** in the plurality of client computers” (emphasis added).

Claims 15 and 16 depend on claim 14 and are thus patentable over Muret at least for the same reasons that claim 14 is patentable.

Similar to claim 1, claim 17 is patentable over Muret at least for reciting: “collecting **navigation histories** from a plurality of **client computers** on a computer network, each navigation history including information identifying **different websites visited by a user of a client computer** in the plurality of client computers” (emphasis added).

Claims 18-20 depend on claim 17 and are thus patentable over Muret at least for the same reasons that claim 17 is patentable.

Claims 4, 6, 12, 21, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Muret in view of U.S. Publication No. 2002/0083067 A1 by Tamayo et al. (“Tamayo”). The rejection is respectfully traversed.

Claims 4, 6 and 12 depend on claim 1, while claims 21 and 23 depend on claim 17. The patentability of claims 1 and 17 over Muret has been demonstrated above. Tamayo does not add to Muret in regard to claims 1 and 17. Therefore, claims 4, 6, 12, 21, and 23 are patentable over the combination of Muret and Tamayo at least for depending on patentable base claims.

#### B. CLAIMS 5 and 22

Claims 5 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Muret in view of Tamayo. The rejection is respectfully traversed.

Claim 5 is patentable over the combination of Muret and Tamayo at least for reciting: “wherein the unreliable data include navigation histories of **short term**



**consumers**” (emphasis added). It is respectfully submitted that the combination of Muret and Tamayo does not teach or suggest that navigation histories of short term consumers are unreliable.

Tamayo paragraph 210, cited in the last office action, discusses the factors that are taken into account to generate an output from a model. However, nothing in that portion of Tamayo discloses that navigation histories of short term consumers are unreliable data. Therefore, it is respectfully submitted that claim 5 is patentable over Tamayo.

Similar to claim 5, claim 22 is patentable over Tamayo at least for reciting: “wherein the data from unreliable samples include data from short term users.”

C. CLAIMS 7 and 24

Claims 7 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Muret. The rejection is respectfully traversed.

Claim 7 is patentable over Muret at least for reciting: “wherein the report includes traffic information of **websites in a particular category of websites**” (emphasis added). It is respectfully submitted that Muret does not teach or suggest reporting of traffic information of websites in a particular website category. Muret pertains to analysis of a single website, not to categories of websites.

Muret paragraph 256, cited in the last office action, discusses report categories, not category of websites. Muret paragraph 263, also cited in the last office action, discusses reports under the traffic category. Note, however, that report categories are not categories of websites, as required by claim 7. Therefore, it is respectfully submitted that claim 7 is patentable over Muret.

Similar to claim 7, claim 24 is patentable over Muret at least for reciting: “wherein the report includes traffic information of **websites in a particular category of websites**” (emphasis added).

D. CLAIMS 9 and 25

Claims 9 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Muret. The rejection is respectfully traversed.

Claim 9 is patentable over Muret at least for reciting: “wherein the report includes **website cross-traffic information**” (emphasis added). It is respectfully submitted that Muret does not teach or suggest generating reports that include website cross-traffic information.

Muret paragraphs 11, 211, and 233, cited in the last office action, discuss reporting functions but none of which pertains to website cross-traffic. For example, Muret paragraph 233 discusses return on investment reporting function that relates to Internet traffic on a particular website, not traffic across different websites. In fact, Muret does not provide reporting on website performance in relation to other websites. Muret only provides reporting for a particular website, not how that particular website performs in relation to other websites. In other words, Muret cannot report on website cross-traffic. Therefore, it is respectfully submitted that claim 9 is patentable over Muret.

Similar to claim 9, claim 25 is patentable over Muret at least for reciting: “wherein the report includes website cross traffic information.”

#### E. CLAIM 13

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Muret. The rejection is respectfully traversed.

Claim 13 is patentable over Muret at least for reciting: “wherein the navigation histories are from client programs configured to deliver advertisements over the Internet.” It is respectfully submitted that Muret does not teach or suggest client programs that provide navigation histories and configured to deliver advertisements.

Muret paragraphs 11, 211, and 233, cited in the last office action discuss reporting functions but none of which pertains to providing navigation histories and delivering advertisements using client programs. Muret pertains to monitoring hits on servers and therefore must deliver advertisements using server-based means, such as banners that come with downloaded web pages. Therefore, it is respectfully submitted that claim 13 is patentable over Muret.

VIII. CONCLUSION

For at least the above reasons, allowance of claims 1-25 is respectfully requested.

Respectfully submitted,  
Dominic Bennett et al.

Dated: Sept. 29, 2006

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Typed or Printed Name:	Patrick D. Benedicto	Dated:	September 29, 2006
Express Mail Mailing Number (optional):			

CLAIMS APPENDIX

CLAIMS INVOLVED IN THE APPEAL



1. A method of analyzing a performance of websites on an Internet, the method comprising:
  - receiving navigation histories from a plurality of client computers on the Internet, each of the navigation history identifying different websites visited by a user of a client computer in the plurality of client computers;
  - building a first database of the navigation histories;
  - processing the navigation histories in the first database to generate relevant website traffic data;
  - storing the relevant website traffic data in a second database; and
  - querying the second database to generate a report indicative of website performance, the report being generated in accordance with user provided criteria.
2. The method of claim 1 wherein the navigation histories include uniform resource locators of web pages received in the client computers.
3. The method of claim 1 wherein the navigation histories include domain names of websites visited using the client computers.
4. The method of claim 1 wherein processing the navigation histories includes removing unreliable data.
5. The method of claim 4 wherein the unreliable data include navigation histories of short term consumers.
6. The method of claim 1 wherein the first database comprises a data warehouse and the second database comprises a datamart.
7. The method of claim 1 wherein the report includes traffic information of websites in a particular category of websites.
8. The method of claim 1 further comprising: delivering advertisements to the client computers.
9. The method of claim 1 wherein the report includes website cross-traffic information.
10. The method of claim 1 wherein the report includes information about traffic to a set of uniform resource locators specified in the user provided criteria.
11. The method of claim 1 wherein the second database includes aggregated

navigation data.

12. The method of claim 1 wherein processing the navigation histories in the first database includes removing navigation histories that have nonsensical data.
13. The method of claim 1 wherein the navigation histories are from client programs configured to deliver advertisements over the Internet.
14. A software tool for analyzing website traffic on an Internet, the tool comprising:
  - a first database configured to receive navigation histories from a plurality of client computers on the Internet, each navigation history including information about different websites visited by a user of a client computer in the plurality of client computers;
  - a submission module configured to receive reporting criteria from a user; and
  - a report creation module configured to generate a report in accordance with the reporting criteria, the report being based on the navigation histories.
15. The software tool of claim 14 further comprising a report status module configured to provide a status of a report requested by way of the submission module.
16. The software tool of claim 14 further comprising: a second database configured to receive relevant website traffic data, the relevant website traffic data being obtained by processing the navigation histories; and wherein the report is generated by querying the second database.
17. A method of analyzing a performance of locations on a computer network, the method comprising:
  - collecting navigation histories from a plurality of client computers on a computer network, each navigation history including information identifying different websites visited by a user of a client computer in the plurality of client computers;
  - processing the navigation histories to obtain relevant navigation data; and
  - generating a report in accordance with user provided criteria, the report being based on the relevant navigation data and indicative of a performance of a location on the computer network.
18. The method of claim 17 wherein the navigation histories include uniform resource locators of web pages received in the client computers.
19. The method of claim 17 wherein the navigation histories include domain names of websites visited using the client computer.
20. The method of claim 17 wherein the computer network includes an Internet.
21. The method of claim 17 wherein processing the navigation histories include removing data from unreliable samples.
22. The method of claim 17 wherein the data from unreliable samples include data

from short term users.

23. The method of claim 17 wherein the navigation histories are stored in a data warehouse and the relevant navigation data are stored in a datamart.

24. The method of claim 17 wherein the report includes traffic information of websites in a particular category of websites.

25. The method of claim 17 wherein the report includes website cross traffic information.

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EVIDENCE APPENDIX

There are no documents or items submitted under this section.

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RELATED PROCEEDINGS APPENDIX

There are no documents or items submitted under this section.